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Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 IO-13 CAB-05 CIAE-00 COME-00

DODE-00 DOTE-00 EB-07 INR-07 NSAE-00 CIEP-02 FAA-00

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R 142145Z SEP 76
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TO SECSTATE WASHDC 7993

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PASS: L/T: MWMMCQUADE

E.OM 11652: N/A
TAGS: PORG, FAIR, ICAO, UR

SUBJ: ICAO: WORKING GROUP ON RUSSIAN TEXT/CHICAGO CONVENTION

REF: STATE 225712

1. MISSION/BOYD PLEASED WITH DEPARTMENT'S QUICK AND HELPFUL RESPONSE CONTAINED IN REFTEL. DELEGATE SUBMITTED AMENDMENTS CONTAINED IN REFTEL.

2. IN OPENING REMARKS, USSR RESISTED PROPOSED CHANGE IN PARA C OF PREAMBLE AND "OFFICIAL WORKING DRAFT" LANGUAGE IN PARA 3 OF ARTICLE 4. RE PARA C, USSR BELIEVES "FINAL CLAUSE" LANGUAGE PROPOSED BY US IS UNNECESSARY AND NOT LOGICALLY PART OF RECITATION CONCERNING BUENOS AIRES PROTOCOL. THOUGH DELEGATE WOULD LIKE TO INCLUDE SUGGESTED "FINAL CLAUSE" LANGUAGE, DELEGATE IS INCLINED TO ACCEDE TO USSR ON THIS MINOR POINT.

3. IN SUPPORT OF PROVISIONAL APPLICATION PROPOSAL, USSR CITES PARA 1(B) OF ARTICLE 25 OF THE VIENNA CONVENTION ON THE LAW OF TREATIES AS WELL AS PARA 4 OF ARTICLE 24 THEREOF AS INTERNTIONAL
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LAW BASIS FOR PROVISIONAL APPLICATION OF RUSSIAN LANGUAGE TEXT.

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ALSO, USSR STATES THAT THE CHICAGO CONVENTION ITSELF WAS PROVI-
SIONALLY APPLIED FOR ABOUT 20 MONTHS FOLLOWING SIGNING IN
DECEMBER OF 1944. USSR FURTHER NOTES THAT ICAO HAS REQUESTED
ADOPTION OF RUSSIAN TEXT NOT LATER THAN 1977. FINALLY, USSR
ARGUES THAT THE INTERESTS OF ALL WOULD BE SERVED BY FINDING A
PRACTICAL SOLUTION THROUGH THE AGREEMENT OF THE PARTIES TO
SUCH A PROVISIONAL APPLICATION. DELEGATE BELIEVES THAT USSR MIGHT
BE PERSUADED BY ARGUMENTS CONTAINED IN REFTEL IF WASHINGTON WANTS
TO BE FIRM ON THIS ISSUE. INFORMAL DISCUSSIONS SUGGEST THAT USSR
MIGHT FIND PROPOSED US AMENDMENT MORE ACCEPTABLE IF THE WORD
"DRAFT" WERE ELIMINATED.

4. USSR NOW SUPPORTS ALTERNATE NUMBER 1, NOT NUMBER 2. GIVEN
USSR CONCESSION ON THIS POINT, USSR DELEGATION SEEMS ESPECIALLY
ANXIOUS ABOUT PROVISIONAL APPLICATION ARGUMENT.

5. WORKING GROUP HAS BEEN ASKED TO PROPOSE METHOD OF TRNASLATING
INTO RUSSIAN THE VARIOUS PROTOCOLS TO THE CHICAGO CONVENTION ASIDE
FROM THE AMENDMENTS CONTAINED IN THESE PROTOCOLS WHICH ARE
BEING REVIEWED ON IN THIS WORKING GROUP. DELEGATE BELIEVES THAT
THESE TRNASLATIONS SHOULD BE LEFT TO ICAO SECRETARIAT BECAUSE
THE PROTOCOLS MINUS THE AMENDMENTS CONTAINED THEREIN DO NOT
REQUIRE THE ATTENTION OF THE WORKING GROUP. DEPARTMENT'S VIEWS
WOULD BE APPRECIATED.

6. TRANSLATION INTO RUSSIAN OF THE WORD "ASSOCIATED" IN PARA (A)
OF ARTICLE 92 HAS PROVEN TROUBLESOME. USSR HAS PROPOSED
PRISOEDINIVSHICHSIA BUT IS NOW INCLINED TO USE THE LESS PRECISE
WORD SOTRUDNITCHAIUSHCHIKH BECAUSE THE LATTER WORD SUGGESTS A
LESS FORMAL ASSOCIATION THAN THE FORMER WORD AND BECAUSE THE
LATTER WORD DOES NOT SUGGEST ACCOMPLISHED ACTION AS DOES THE
FORMER.

7. DELEGATE WOULD APPRECIATE DEPARTMENT'S VIEWS ON PARAS 1,
2, 3, 5, AND 6. BECAUSE USSR SAYS THAT MOSCOW IS NOT PLEASED
WITH LATEST PROPOSED AMENDMENT TO PARA 3 OF ARTICLE 4 (PROVI-
SIONAL APPLICATION), DELEGATE WOULD ESPECIALLY APPRECIATE QUICK
RESPONSE CONCERNING PARA 3 ABOVE. IF NO RESPONSE TO PARAS 5 AND
6 IS RECEIVED BY THURSDAY, DELEGATE WILL FOLLOW WORKING
GROUP'S DESIRES.
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8. SUBSEQUENT TO THE PREPARATION OF PARAS 1-7, USSR DEL
APPROACHED MISSION/BOYD WITH SPECIAL PLEA FOR WAHSINGTON
TO ACCEPT USSR PROPOSAL WITHOUT US "OFFICIAL WORKING DRAFT"
AMENDMENT. FIVE ARGUMENTS WERE ADVANCED. FIRST, PARA 1 (A)
OF ARTICLE 25 OF VIENNA CONVENTION ON LAW OF TREATIES PERMITS
KIND OF PROVISIONAL APPLICATION OF RUSSIAN TEXT HERE REQUESTED
WITHOUT CHICAGO CONVENTION SO PROVIDING. SECOND, PERHAPS

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TWENTY YEARS WILL PASS BEFORE REQUIRED NUMBER OF 94 STATES HAVE RATIFIED AMENDMENT PROVIDING FOR RUSSIAN TEXT. IN THAT PERIOD OF TIME, IT WOULD BE AN EXTREME BURDEN ON USSR NOT TO BE ABLE TO INTRODUCE RUSSIAN TEXT AS AN AUTHENTIC TEXT INTO THEIR LEGISLATIVE AND JUDICIAL PROCEEDINGS. THIRD, THE GENERAL ASSEMBLY CALLED FOR AN AUTHENTIC TEXT BY 1977, AND THE US PROPOSAL FOR AN OFFICIAL WORKING DRAFT DOES NOT MEET THIS DEADLINE. FOURTH, USSR WILL PROBABLY BE OBLIGED TO TAKE THIS ISSUE TO MEETING OF PLENIPOTENTIARIES IF US IS NOT WILLING TO COMPROMISE. FIFTH, USSR HAS COMPROMISED ON ALL IMPORTANT ISSUES UNTIL NOW, AND USSR CANNOT GO ANY FURTHER.

9. IN RESPONSE TO THOSE ARGUMENTS, DELEGATE POINTED OUT FOLLOWING. IT IS DIFFICULT FOR US TO ACT ON BASIS OF PARA 1 (B) OF ARTICLE 25 OF VIENNA CONVENTION WHEN CHICAGO CONVENTION DOES NOT SPECIFICALLY PROVIDE FOR PROVISIONAL APPLICATION OF AMENDMENTS. ONLY ONE OR TWO YEARS WOULD BE NEEDED TO OBTAIN NECESSARY RATIFICATIONS. GENERAL ASSEMBLY MANDATE COULD BE CONSTRUED TO BE SATISFIED BY A PROPOSAL TO BE RATIFIED IN 1977. IF US WERE TO ACCEPT PROVISIONAL APPLICATION HERE, A DANGEROUS PRECEDENT WOULD BE SET, AND THERE WOULD BE LITTLE INCENTIVE FOR RUSSIAN TEXT TO BE SUBSEQUENTLY ADOPTED.

10. DOES DEPT WISH TO CONSIDER PROVISIONAL APPLICATION FOR A SHORT PERIOD OF TIME, EG, 2 YEARS, DOES DEPT HAVE OTHER COMPROMISE PROPOSAL, OR DOES DEPT WISH TO STAY WITH POSITION OUTLINED IN REFTEL?
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